TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. ~~168~~ 13.

ILLINOIS CENTRAL RAILROAD COMPANY, PLAINTIFF IN ERROR,

vs.

J. U. McKENDREE.

IN ERROR TO THE CIRCUIT COURT OF CARLISLE COUNTY, STATE OF KENTUCKY.

FILED JANUARY 25, 1905.

(19,615.)

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1 Pleas before the Honorable R. J. Bugg, Judge Carlisle, circuit court, Carlisle county, Kentucky, at its October term, thereof, in the year of our Lord one thousand nine hundred and four.

Be it remembered that on the 5th. day of February, 1904, the plaintiff, J. U. McKendree came by his attorneys, J. M. Nicols & Son, and Wickliffe & Wiley and filed in the clerk's office of the Carlisle circuit court his petition against the Illinois Central Railroad Company and ordered summons to issue on *siad* petition which was done accordingly, and said petition is in words and figures as follows, to-wit:

"The plaintiff, J. U. McKendree, says that the defendant, Illinois Central Railroad Company, are a corporation, duly incorporated under the laws of the State of Illinois, and permitted to sue and be sued, and plead and be pleaded and enjoy any and all legal rights that a natural person enjoys, and that they are running and conducting railroad through*t* Carlisle county, and that on the 11th. day day of July, 1903, they received for transportation one car or more of infected cattle, and transport*ated* them into the town of Arlington. And on the 13th. day of July, 1903, unloaded said infected cattle in said town, placing them in stock pens in said town where cattle running on the commons where they had a right to run, could and did come in contact with said infected cattle and contracted infection, Texas cow fever, and that the defendant knew or could have known with reasonable care that said cattle did have infect*u*ous germs when they unloaded said infected cattle, they having brought them from an infected district, knowing and in open conflict with well known quarantine laws and while said infected cattle
2 was so held by defendant in said stock pens, the defen*e*ant's cows came in contact with said infected cattle and contracted said Texas cow fever and died, to plaintiff's great damage, to-wit: Eighty dollars, ($80.00).

Wherefore, plaintiff prays for judgment for eighty dollars, and all other proper relief."

"J. U. McKENDREE."

"Sig*h*ed and sworn to by J. U. McKendree, before me, this the — day of February, 1904."

"J. C. FORD, J. P. C. C."

(Endorsed:) "Filed, summons and one copy issued, Feb'y 5" 1904. B. T. Huey, cl'k, by Lee T. Tayler, D. C."

3 *Siad* summons which was issued on the foregoing petition is in words and figures as follows, to-wit:

"Commonwealth of Kentucky to the sheriff of Carlisle county, Greeting:

"You are commanded to summon Illinois Central Railroad Company, to answer in 10 days after the service of this summons, a petition filed against it in the Carlisle circuit court by J. U. McKendree and warn it that upon failure to answer, the petition will be taken for confessed, or it will be proceeded against for contempt, and you will make due return of this summons within 10 days after the service thereof to the clerk's office of said court."

"Witness B. T. Huey, clerk of said court, this 5th. day of February, 1904.

"B. T. HUEY, Clerk,
"By LEE T. TAYLOR, D. C."

Be it further remembered that said summons was placed in the hands of J. Willingham, sheriff of Carlisle county, to do execution thereon, and the same was returned in to said above named office with the following return thereon, to-wit:

"Exec-ted by delivering a true copy of the -in summons to John Faffany the Illinois Central Railroad Company's agent at Bardwell, Ky., Feb'y, 5th. 1904.

"J. WILLINGHAM, S. C. C."

4 Be it further remembered that on the 15th. day of February, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"Ordered that the above sase be, and the same is set down for trial on Tuesday, the 8th. day of this term of the court."

Be it further remembered that on the 19th day of February, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came defendant by attorney and filed demurrer to the petition herein."

And said demurrer is in words and figures as follows, to-wit:

"The defendant demurrers generally to the petition herein and to each part of same, for the reason it does not state facts sufficient in law to constitute a cause of action against it."

"ROBBINS, THOMAS & BRIDGWATER,"
"Per Att'ys."

(Endorsed:) "Filed, Feb'y 19" 1904, B. T. Huey, cl'k."

5 Be it further remembered that on the 23rd. day of February, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"The demurrer filed herein to plaintiff's petition coming on to be heard, and the court being advised, overruled said demurrer, to which defendant excepts; then came defendant and filed answer

herein, and the affirmative allegations of said answer is controverted of record by plaintiff, and this case is continued."

Said answer above filed to plaintiff's petition is in words and figures as follows, to-wit:

"The defendant not waiving its demurrer to the petition, denies that it brought the car load of cattle complained on from any infected district, knowing or otherwise, or that it so brought them against or in conflict with any quarantine laws, and it denies that said cattle was infected, and it denies that it knew or could have known with the use of reasonable care, at any time that any of said cattle had infectuous germs, it has no knowledge or information sufficient to form a belief as to whether either of plaintiff's cows contracted the disease from which they died from any of said cattle, or as to whether they were worth eighty dollars or any more than thirty dollars.

And it denies that by any act of it, it has damaged plaintiff in the sum of eighty dollars or part of it.

Wherefore it prays to be dismissed with its cost and all proper relief."

"ROBBINS, THOMAS & BRIDGWATER, Att'ys."

[Endorsed:] "Filed, Feb'y 23rd. 1904, B. T. Huey, cl'k, by Lee T. Taylor, D. C."

6 Be it further remembered that on the 8th. day of June, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came defendant by attorney, and produced to the court and filed amended answer herein."

And said above amended answer is in words and figures as follows, to-wit:

"The defendant would amend its answer herein by adding thereto the following, which was mistakingly omitted, viz:

Further answering herein, the defendant says that the claims of the plaintiff herein asserter are based upon a certain alleged act of Congress of the United States of America approved February 2, 1903, 'entitled an act to enable the Secretary of Agriculture to more effectually suppress and prevent *and prevent to* spread of contageous and infectuous diseases of live stock and for other purposes' which act is published and contained in volume 32 United States Statutes at Large beginning at page 791 and also in a supplement to the United States compiled statute issued in 1903, by the West publishing company, St. Paul, Minn., beginning at page 372 of said volume, and said claims are further based upon certain alleged regulations adopted and promulgated by the Secretary of Agriculture on March 13, 1903, pursuant to the authority attempted to be conferred upon him by said alleged act of Congress above mentioned approved February 2, 1903.

The defendant says that said act of Congress herein before men-

tioned and said regulations adopted by the Secretary of Agriculture as hereinbefore stated are each and all of them repug-
7 ent to and in contravention of the Constitution of the United States of America and is -n excess of the powers of Congress and of the Secretary of Agriculture under the Constitution of the United States and they are each and all, therefore, unconstitutional and void, and under the Constitution of the United States this defendant has the right, pricilege and immunity of being exempt from the assertion or prosecution of any claims against it based upon or arising under such act of Congress or said regulations or any of them, and this defendant as permitted by section 709, of the Revised Statutes of the United States hereby specially sets up and claims and pleads in defendse of this action the right and privilege and immunity which is secured to it by the Constitution of the United States to be exempt from all suits and prosecutions and all claims against it based upon or arising under such unconstitutional and void act of Congress and regulations adopted or promulgated by the Secretary of Agriculture.

"Wherefore having fully answered herein defendant prays to be hence dismissed with its cost."

"ROBBINS, THOMAS & BRIDGWATER, Att'ys."

"Gus Thomas says he is agent and att'y for def't, the chief officers of which are absent from Carlisle county, and he believes above statements are true."

"GUS THOMAS."

"Subscribed and sworn to before me by Gus Thomas, June 8, 1904."

"J. E. BRIDGWATER,"
"Ex. for C. Co."

(Endorsed:) "Filed June 8", 1904. B. T. Huey, cl'k."

8 Be it further remembered that on the 10th day of June, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came plaintiff by attorney and produced to the court and filed demurrer to the amended answer herein."

And said demurrer is in words and figures as follows, to-wit:

"The plaintiff demurs generally to defendant's amended answer herein for the reason that it does state facts in law sufficient to constitute a defense in it.

"BY ATT'YS FOR PL'F'T."

(Endorsed:) "Filed June 10" 1904. B. T. Huey, cl'k."

9 Be it further remembered that on the 15th. day of June, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came plaintiff by attorney and filed amended petition nd by agreement of parties the affirmative alligations of said mended petition are controverted of record by defendant."

And said aman-ed petition filed herein by plaintiff is in words and gures as follows, to-wit:

"The plaintiff, J. U. McKendree comes and by leave of the court mends his petit-on and says, that the defendant, Illinois Central Railroad Company on the 13th day of *Jouym* 1903, received one car f cattle at Grand Junction, Tenn. to be transported to the town of Arlington, Ky., and on the 13th. day of said month unloaded them n the stock pens in *siad* town.

That the town of Arlington is a small town located on defendant's oad in this, Carlisle county, and defendant's stock pens are located djacent to the public highway, and commons, and that Grand unction, Tenn. is located on defendant's road and south of the uarantine line that was established on the 14th. day of March, 1903, y and under the existing quarantine laws, and that said quarantine line 'beginning on the Mississippi river at the south east corner f the State of Missouri at the western boundary of Tennessee; hence southerly along the western boundaries of the counties of Dyer and Lauderdale thence following the main channel of the Mississippi river; (leaving Island # 37, to the north and west) to the north west corner of Shelby county on the Mississippi river; thence easterly along the northern boundary of Shelby county and Fayette county, to the south west corner of Haywood county; thence northerly and easterly along the western and northern boundary lines of Haywood to the northeastern corner of said county; thence easterly along the northern boundary line of Maddison county to the south west corner of Carroll county; thence northerly and easterly along the western and northern boundary lines of Carroll to the north east corner of said county; thence southerly along the eastern boundary of said county to its intersection with N. C. & St. L. railway; thence easterly along the middle of said N. C. & St. L. railway through Benton county to the intersection *of* with the Tennessee river at the eastern boundary of Benton county; thence south along the lines of Benton county, and Decatur county to the north west corner of Wayne and Lawrence county to the north eastern corner of Lawrence county; thence south along the eastern boundary of Lawrence county to the south east corner thereof; thence east along the southern boundary of Giles county to Elk river; thence north westerly along said river through Lincoln and Giles counties to the eastern boundary of Lincoln county; thence north-ly and easterly along the western and northern boundaries of Moore county to the north east corner of Moore county thence north along the west boundary lines of Coffee and Cannon counties to the north west corner of Cannon county; thence north easterly and south easterly along the northern and eastern boundaries of Cannon county to the boundary of Warren county; thence easterly along the northern boundary of

Warren county to the western boundary of White county; thence north easterly and south easterly along the western and northern boundaries of White county to the western boundary of Cumberland county; thence southerly, easterly, and north easterly
11 along the southern and eastern boundaries of Cumberland county to the northern corner of Rhea county; thence southerly along the eastern boundary lines of Rhea and James counties to the north west corners of Bradley county; *B*hence northerly and south easterly along the northern boundary lines of Bradley and Polk counties to the south east corner thereof at the south western corner of the State of North Carolina. And that the defendants received said cattle south of said quarantine line, and transported them north and out of a quarantine district, and south of the said quarantine line and transported them north through the State of Tennessee, into this county and State, and unloaded them in the town of Arlington and placed them in their stock pens adjacent to the public highway and commons where plaintiff's cows came in contact with the germ of Texas cow fever, that said cattle had on them when put in the pens as aforesaid, that said stock pens — suffered and permitted to remain open and exposed to cattle after the removal of said cattle without disinfecting, or any other effort to protect exposed stock, and plaintiff's cows contracted Texas cow fefer from said germs produced from said cattle while in said stock pens, to the damage of plaintiff.

Wherefore he prays as in his original petition."

"NICHOLS & SON,
"WICKLIFFE & WILEY,
Att'ys for Plaintiff."

(Endorsed:) "Filed June, 15" 1904. B. T. Huey, cl'k."

12 Be it further remembered that on the 16th. day of June, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"Ordered that this case be continued."

Be it further remembered that on the 24th, day of October, 1904, the following oreder was made herein and the same is in words and figures as follows, to-wit:

"The demurrer heretofore filed to amended answer coming on to be heard and the court being advised on same, sustained said demurrer, to which defendant excepts; then came the parties and announced ready for trial, and issue being joined, came the following jury, to-wit: Mug Page, G. W. Vallandingham, F. S. Petrie, Simon Rowland, F. H. Harper, Mont Stratton, D. W. Harper, W. H. Wilson, J. L. Copeland, Richard Boyd, W. B. Fisher, & F. P. Leath, who were sworn to try the issue and on motion of defendant, C. B. Crossland, this court's official stenographer is directed to take the proof in this case, and the *and the* evidence herein being heard, the defend-

ant offered instruction, "A" and moved the court to give said instruction "A" to the jury to which plaintiff objected and the court being advised sustained said objections and refused to give same to which defendant excepts; then came defendant and offered instruction "B," and moved the court to give said instruction to the jury to which plaintiff objects and the court being advised, overruled said objections and gave same to the jury, to which plaintiff excepts; then the court on its own motion gave instructions # 1 & 2,

13 to the jury to which both plaintiff and defendant excepts and the argument of counsel having been heard, the case was finally submitted to the jury and they retired to their room for deliberation and returned into court the following verdict, to-wit:

"We, of the jury, find for the plaintiff in the sum of sixty-five dollars."

F. S. PETRIE.
W. H. WILSON.
W. B. FISHER.
S. I. ROWLAND.
G. VALLANDINGHAM.
F. H. HARPER.
J. L. COPELAND.
RICHARD BOYD.
MUG PAGE.
F. P. LEATH.
MONT STRATTON.

Be it remembered that on the 24th day of October, 1904, the following judgment was rendered herein on the above verdict of the jury, and said judgment is in words and figures as follows, to-wit:

"In view of the foregoing verdict, it is the judgment of the court that the plaintiff, J. U. McKendree do recover of defendant, Illinois Central Railroad Company, the sum of sixty-five ($65.00) dollars, with interest from October, 24th, 1904, and his cost herein and that *fi. fa.* do issue."

14 Be it further remembered that on the 24th day of October, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came defendant by attorney and produced to the court and filed reasons and entered motion and moved the court to set aside the verdict and judgment had herein and grant it a new trial."

And said reason- for new trial are in words and figure- as follows, to-wit:

"The defendant, Illinois Central Railroad Company, comes and moves the court to set aside the verdict and judgment rendered thereon, and grant it a new trial herein because said verdict is against the evidence and is contrary to the evidence, and the verdict is not sustained by sufficient evidence, and is contrary to law, and,

Second. Because of errors of law occurring at and during the trial and progress of the same and all and each of which were excepted to at the time and to which it still excepts in this;

That the court erred to the substantial prejudice of defendant in sustaining the demurrer of plaintiffs to the amended answer of defendant, and erred to the substantial prejudice of defendant in admitting to the jury over the objections of the defendant, the alleged attached copy of the orders of quarantine issued by the Secretary of Agriculture of the United States, the defendant contending that the same was not properly or legally proven, and also erred to the substantial prejudice of defendant in admitting *to the* over the objections of defendant all evidence as to the plaintiff's premises and Rob't Brown's premises having been quarantined by any one or by any authority, and erred in admitting other evidence to the jury, offered by plaintiff over the objections of defendant, and erred to the substantial prejudice of defendant in giving to the jury instructions Nos. 1 & 2, by the court over the objections of defendant and to the giving of each of which the defendant excepted at the time; and the court erred to the substantial prejudice of defendant in refusing to give to the jury instruction "A," offered by defendant, to which ruling of the court the defendant excepted and still excepts by reason of all of which this defendant has not had a fair or impartial trial."

"ROBBINS, THOMAS & BRIDGWATER,
Attorneys for Defendant."

(Endorsed:) Filed Oct. 24" 1904. B. T. Huey, cl'k.

Be it further remembered that on the 25th day of October, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"The motion entered heretofore herein asking for a new trial coming on for hearing and the court being advised, overruled said motion to which defendant excepts."

Be *ti* further remembered that on the 4th day of November, 1904, the following order was made herein and the same is in words and figures as follows, to-wit:

"This day came the defendant by attorney and filed bills of exception, Nos. 1 & 2, duly signed by the judge of this court and made a part of this rocord. The defendant also files a copy of bill of exceptions No. 1, to be used in making out this record."

And said bill of — No. 2, is in words and figures as follows, to-wit:

"Be it remembered that at the trial of this cause the defendant at the close of the evidence for the plaintiff offered and moved the court to give to the jury instruction "A," in words and figures as follows, to-wit:

"The court instructs the jury to find for the defendant."

"Refused."

But the court overruled said motion and refused to give to the *the* jury said instruction "A," to which the defendant ex-
17 cepted, and court on its own motion gave to the jury instructions Nos. 1 & 2, (No. 1) in words and figures as follows:

"The court instructs the jury that if they believe from the evidence that the cattle shipped to Arlington, Ky., from Grand Junction Tenn. by J. A. Jones through the defendant, Illinois Central Railroad Company, were infected with the disease known as Texas fever and that through and by reason of such disease if any of said Jones' cattle, the two cows of plaintiff were infected and died therefrom, then you will find for plaintiff the reasonable cash calue of said two cows, noy exceeding the sum of eighty dollars."

"Given"

(No. 2.), in words and figures as follows:

"The court instructs the jury that unless you believe from the evidence plaintiff's cows caught an infectuous disease from the Jones cattle and died therefrom, the law is for the defendant and you should so find, although you may further believe from the evidence that the Jones cattle had the infectious disease known as Texas fever."

"Given."

To the giving of which defendant objected and excepted.

And the court on the motion of defendant gave instruction "B" to the jury which is in words and figures as follows:

"The court instructs the jury that they cannot find for plaintiff unless the cattle shipped by J. A. Jones over defendant's railroad and unloaded at Arlington had Texas fever or Texas ticks; nor can the jury find for poaintiff, alt-ough they may believe said Jones' cattle were infected by Texas fefer or Texas ticks, unless they fur-
ther believe that plaintiff's cattle contracted the disease from
18 said Jones' cattle, while the latter were in the pens of defendants at Arlington."

"Given."

To the giving of which the plaintiff objected and excepted and these were all the instructions offered, given or refused at the trial of this case.

Be it further remembered that all the evidence offered heard or refused in this case is set out in bill of exceptions No. 1, filed herein by defendant, and both it, and this is a true and correct bill of exceptions."

"R. J. BUGG, Judge."

(Endorsed:) "Filed Nov. 4" 1904. B. T. Huey, cl'k."

19 Be it further remembered that on the 23rd day of December, 1904, the following certificate was filed in the clerk's office of the Carlisle circuit court, which certificate was duly signed by Hon. R. J. Bugg, judge of said court, and same is in words and figures as follows, to-wit:

"STATE OF KENTUCKY:

Carlisle Circuit Court.

J. U. McKENDREE, Plaintiff,
vs.
ILLINOIS CENTRAL RAILROAD COMPANY, Defendant. } Certificate.

"I, R. J. Bugg, sole presiding judge of the circuit court of Carlisle county in the State of Kentucky now and at the time of the trial of the above entitled cause, do hereby certify:—

That upon the trial of said cause the defendant, Illinois Central Railroad Company relied for its defense upon certain rights, privileges and immunities specially claimed by it under the Constitution of the United States of America, and it insisted upon its said rights, privileges and immunities throughout the trial of said action and in the assertion of them it claimed and contended that the various regulations and orders made and promulgated by the Secretary of Agriculture and offered in evidence on behalf of the plaintiff herein over the objections of defendant were unconstitutional, null and void as being in excess of the powers conferred or which could be conferred by act of Congress upon the Secretary of Agriculture under the Constitution of the United States of America, and that the said act of Congress approved February 2, 1902, under which the
20 Secretary of Agriculture assumed to promulgate said orders and regulations was itself unconstitutional null and void as being in conflict with the Constitution of the United States of America and in excess of the powers conferred by it upon the Congress.

Said defendant, Illinois Central Railroad Company, further contended throughout the trial of said cause that no right of action against it accrued to the plaintiff by reason of any of the alleged regulations or orders made or promulgated by the Secretary of Agriculture, and offered in evidence upon the trial of this action, or by reason of the alleged failure on the part of the defendant to observe or to comply with any of said regulations or orders on the ground that the said regulations or orders did not assume or attempt to give, and that the said act of Congress did not assume or attempt to give, to the plaintiff herein or to any other in like situation a remedy by way of civil action against the defendant herein for its alleged breach of any of said regulations or orders made or promulgated by the Secretary of Agriculture, and throughout the trial of said action the defendant, Illinois Central Railroad Company, specially set up and claimed even if said act of Congress and said regulations and orders were valid under the Constitution and laws of the United States, still it had a right, privilege or immunity under the said act of Congress or the said regulations or orders from any liability to the plaintiff, J. U. McKendree, in a civil action for damages claimed on account of its alleged breach of said regulations or orders.

In allowing the said regulations or orders of the Secretary of Ag-

riculture to be given in evidence before the jury and in overruling the motion of defendant to peremptorily instruct the jury to return a verdict in its favor, the Carlisle circuit court disallowed the
21 various contentions made as above stated on behalf of the Illinois Central Railroad Company, and denied the claims made by it of the rights, privileges, or immunities specially claimed by it as above stated, and held that the various claims made by it were not well founded in law under the Constitution and laws of the United States of America, and the claims of the plaintiff herein *was* established and a judgment in his favor, rendered solely by reason of defendant's alleged breach of said regulations and orders.

I do further certify that under the laws of the State of Kentucky the Carlisle circuit court is the highest court of said State in which said cause can be reviewed or tried or decision therein had and that there *is* no court of the State of Kentucky having jurisdiction under its laws to review or to reverse its judgment in this cause.

Given under my hand as sole presiding judge of the Carlisle circuit court during the entire time of the pendency of the above entitled cause in said court this 21st day of December, 1904."

"R. J. BUGG,"
"Sole Presiding Judge of the Carlisle Circuit
Court for Carlisle County, Kentucky."

(Endorsed:) "Filed, Dec. 23rd 1904. B. T. Huey, clerk."

22 Be it further remembered that on the 23rd day of December, 1904, there was filed in the circuit court clerk's office of Carlisle county, Kentucky, a petition for writ of error, assignment of writ of error and bond with supersedeas, which were duly signed by Hon. R. J. Bugg, judge of the Carlisle circuit court, and said instruments are in words and figures as follows, to-wit:

"The Supreme Court of the United States.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff in Error,
vs.
J. U. MCKENDREE, Defendant in Error.

The above named Illinois Central Railroad Company conceiving itself aggrieved by the orders made and the decision rendered and the judgment entered in the Carlisle circuit court for Carlisle county, Kentucky in the action of the above named defendant in error against the above named plaintiff in error in said court at its October term, 1904, to-wit: On the — day of October, A. D. 1904 said court being the highest court of the State of Kentucky having jurisdiction of said cause in which it might be tried or reviewed or in which a dicision of said cause might be had the said cause not being subject to review under the laws of

Kentucky in any higher court of said State, in which cause it was adjudged that defendant in error, J. U. McKendree, recover
23 of plaintiff in error, Illinois Central Railroad Company, the sum of sixty five dollars ($65.00) with interest from the — day of October, 1904 until paid at the rate of six per cent. per annum—presents herewith its assignment of errors and prays for a writ of error to issue out of said Supreme Court of the United States to the said circuit court of Carlisle county, Kentucky and the judge thereof to the end that the record in said matter may be removed to the Supreme Court of the United States and the errors complained of by your petitioner may be examined and corrected and said judgment of the Carlisle circuit court for Carlisle county, Kentucky be reviewed and reversed."

"ILLINOIS CENTRAL RAILROAD COMPANY,
By J. E. ROBBINS,
GUS THOMAS &
JOHN C. DOOLAN, Attorneys."

"Allowed by
R. J. BUGG,
Sole Presiding Judge Carlisle Circuit Court."

"J. E. BRIDGWATER,"
"J. M. DICKINSON,"
"ROBBINS & THOMAS,"
"TRABUE, DOOLAN & CO.,
Of Counsel."

24 Said assignment of errors filed herein is in words and figures as follows, to-wit:

"Supreme Court of the United States.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff in Error, *vs.* J. U. MCKENDREE, Defendant in Error. } Assignment of Errors.

"On this 21st. day of December in the year of our Lord 1904 comes plaintiff in error, Illinois Central Railroad Company by J. E. Robbins, Gus Thomas and John C. Doolan its attorneys, and says that in the record and proceeding had in the above entitled matter which was an action brought in the Carlisle circuit court for Carlisle county, Kentucky by the defendant in error, J. U. McKendree, against the plaintiff in error, Illinois Central Railroad Company, there is manifest error in the orders, decision and judgment of the said Carlisle circuit court in the following respects, to-wit:

I.

Said Carlisle circuit court for Carlisle county, Kentucky erred to the prejudice of the plaintiff in error, Illinois Central Railroad Company, in allowing the defendant in error, J. U. McKendree, over the objections of the plaintiff in error to offer and give in
25 evidence before the jury upon the trial of the above mentioned cause in the said Carlisle circuit court the said orders and regulations made and promulgated by the Secretary of Agriculture of the United States of America and amendments thereto made and promulgated by the said Secretary of Agriculture and by the acting Secretary of Agriculture of the United States of America which orders and regulations were and are designated as B. A. I. order No. 107 made and promulgated by the Secretary of Agriculture on March 13, 1903, and *and* the amendments thereto numbered respectively 1 to 15, both inclusive, made and promulgated respectively on March 14, 1903, May 5, 1903, September 1, 1903, September 24, 1903, and October 20, 1903 by the said Secretary of Agriculture and the said acting Secretary of Agriculture—in or by which said orders or regulations above mentioned it was attempted to be provided that a Federal quarantine line should be established across the United States of America running in an irregular manner from the Pacific ocean to the Atlantic ocean and extending through the State of Tennessee in a generally eastwardly and westerly direction in such a manner as to divide said State of Tennessee into two par*st*, and in and by which said orders and regulations and *and* amendments thereto it was attempted to be provided that the transportation of cattle from the area south of or below said Federal quarantine line above mentioned to any portion of the United States above, north, east or west of said Federal quarantine line should be prohibited and forbidden except upon certain conditions and subjected to certain restrictions and regulations therein prescribed.

Said Carlisle circuit court further erred in said matter in permitting defendant in error upon the trial of said cause to give in evidence over the objections of plaintiff in error, each and
26 every one of the regulations or orders or amendments thereto made and promulgated as above set forth.

To such ruling of the Carlisle circuit court in permitting each and all of said orders and regulations and amendments thereto to be given in evidence at the trial of said action the plaintiff in error throughtout the trial objected and excepted and it still objects and excepts thereto.

II.

Said Carlisle circuit court further erred in said matter in sustaining the demurrer of the defendant in error, J. U. McKendree, to so much of the answers as amended of the plaintiff in error, Illinois Central Railroad Company, as specially set and claimed rights, privileges and immunities under the Constitution and under the

laws of the United States of America, to which ruling of the said court plaintiff in error objected and excpeted throughout the trial and still objects and excepts.

III.

Said Carlisle circuit court further erred in said matter in holding and deciding against the protest and objections of the plaintiff in error, Illinois Central Railroad Company, that the said Secretary of Agriculture was empowered and that the said acting Secretary of Agriculture was empowered under the act of Congress approved February 2, 1903, entitled "An act," to enable the Secretary of Agriculture to more effectually sup-ress and prevent the spread of contagious diseases of live stock, and for other purposes," (which act is published and contained in volume 32 United States Statutes at Large beginning at page 791) to adopt or promulgate or en-
27 force any or all of the regulations or orders aforesaid or amendments thereto and in so holding and deciding the said Carlisle circuit court for Carlisle county, Kentucky erred in denying the contentions made through out the trial of said action on behalf of plaintiff in error to the effect that under the Constitution of the United States of America it had a privilege and immunity and exemption from any liability or proceeding of any character based upon the orders and regulations aforesaid.

IV.

Said Carlisle circuit court further erred in said matter in holding and deciding against the protest and objections of the plaintiff in error, Illinois Central Railroad Company, that the Congress of the United States of America is or was empowered by the Constitution of the United States of America to confer upon the Secretary of Agriculture authority to adopt or to promulgate or to enforce the said orders, rules or regulations, or any of them, or any amendments thereto, and in so holding and deciding the Carlisle circuit cou-t erred to the prejudice of the plaintiff in error, Illinois Central Railroad Company in denying the claims specially set up by it throughout the trial of said action to a privilege, immunity and exemption specially claimed by it under the Constitution of the United States from any liability or proceeding under any of the orders, rules and regulations aforesaid.

V.

28 Said Carlisle circuit court further erred in s-id matter to the prejudice of the plaintiff, in error in holding and deciding that any cause of action whatever occu-ed to the defendant in error, J. U. McKendree by reason of any alleged violation or breach of any of the orders, rules and regulations aforesaid or amendments thereto even if same could be regarded or treated as valid. In so doing the Carlisle circuit court denied the contentions made on be-

half of the plaintiff in error, Illinois Central Railroad Company, throughout the trial of said cause, and denied its claim of exemption from any proceeding under the Constitution or laws of the United States of America by reason of the facts alleged or sought to be proven by the defendant in error, J. U. McKendree, upon the trial of said action, which said rights, privileges and exemptions were specially set up and specially claimed by the plaintiff in error throughout the trial of said action in the Carlisle circuit court.

VI.

Said Carlisle circuit court further erred in said matter to the prejudice of the plaintiff in error, Illinois Central Railroad Company, in rendering a judgment in favor of the defendant in error, J. U. McKendree, against the said plaintiff in error for the sum of sixty five dollars ($65.00) and interest or for any sum based upon the claim of a failure on the part of plaintiff in error to observe or to comply with the rules, regulations and orders on amendments thereto promulgated as aforesaid by the Secretary of Agriculture and by the Acting Secretary of Agriculture."

"ILLINOIS CENTRAL RAILROAD COMPANY,
By J. E. ROBBINS,
GUS THOMAS, AND
JOHN C. DOOLAN,
Attorneys."

"J. E. BRIDGWATER,"
"J. M. DICKINSON,"
"ROBBINS & THOMAS,"
"TRABUE, DOOLAN & COX,"
Of Counsel."

29 STATE OF KENTUCKY:

Carlisle Circuit Court.

Desiring to give the petitioner, Illinois Central Railroad Company an opportunity to test in the Supreme Court of the United States the questions presented in its petition for writ of error and in its assignment of errors by which said petition is accompanied, it is ordered that a writ of error from the Supreme Court of the United States to the Carlisle circuit court for Carlisle county, Kentucky be and the same is hereby allowed, and it is ordered that the same be made a supersedeas and a bond in the penal sum of five hundred dollars ($500.00) herewith presented is approved.

In testimony whereof I hereunto set my hand this the 21st day of December, 1904."

"R. J. BUGG,
Sole Presiding Judge of the Carlisle Circuit Court for Carlisle County, Kentucky."

30 Said bond executed by the Illinois Central Railroad Company is in words and figures as follows, to-wit:

"Carlisle Circuit Court.

J. U. McKENDREE, Plaintiff,
vs.
ILLINOIS CENTRAL RAILROAD COMPANY, Defendant.

Know all men by these presents that the Illinois Central Railroa Company, principal, and J. E. Robbin, Gus Thomas and John Doolan sureties are held and firmly bound unto the above name J. U. McKendree in the sum of five hundred dollars ($500.00) to b paid to the obligee, herein, to which payment well and truly to b made we bind ourselves and each of us, jointly and sever-ly, and ou and each of our successors, heirs, executors, and administrator firmly by these presents.

Sealed with our seals and dated the 21st. day of December, 190

Whereas, the above named Illinois Central Railroad Compan has prosecuted a writ of error from the Supreme Court of the Unite States to reverse the judgment rendered in the above cause by th Carlisle circuit court for Carlisle county, Kentucky:

Now, therefore, the condition of this obligation is such that if th above named Illinois Central Railroad Company shall prosecute i said writ of error to effect and, if it shall fail to make good its ple *and* answer the whole amount of the judgment herein, including th just damage for delay and all cost and interest, then this obligatio shall be void; otherwise the same shall be and remain in full for and effect."

31 "ILLINOIS CENTRAL RAILROAD COMPANY,
By J. E. ROBBINS,
GUS THOMAS, AND
JOHN C. DOOLAN, Attorneys." [L. S.]
"J. E. ROBBINS." [L. S.]
"GUS THOMAS." [L. S.]
"JOHN C. DOOLAN." [L. S.]

"Sealed and delivered in the presence of and approved by m this 21st. day of December, 1904."

"R. J. BUGG,
Sole Presiding Judge of the Carlisle Circuit
Court for Carlisle County, Kentucky."

(Endorsed:) "Filed, Dec. 23" 1904. B. T. Huey, cl'k."

32 Writ of Error.

UNITED STATES OF AMERICA:

The President of the United States to the Carlisle circuit court of Kentucky and to the judge thereof, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Carlisle circuit court, before the judge thereof, being the highest court of law or equity of the said State in which a decision could be had in the said suit between J. N. McKendree plaintiff and The Illinois Central Railroad Company, defendant, wherein was drawn in question the validity of a statute of the United States and the decision as against its validity, or wherein was drawn in question the validity of a statute or constitution of or an authority exercised under said State of Kentucky, on the ground of their being repugnant to the Constitution or laws of the United States, and the decision was in favor of such their validity, or wherein was brought in question the construction of a clause of the Constitution or of a statute of the United States and the decision was against the right, title, privilege, or exemption specially set up or claimed under such clause of the said Constitution or statute, a manifest error hath happened, to the great damage of the said Illinois Central Railroad Company, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States together with this writ, so that you have the same at Washington
33 within thirty days from the date hereof, in said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 21st day of December, in the year of our Lord, one thousand nine hundred and four, and of the Independence of the United States of America the one hundred and twenty-ninth.

[Seal 6th Circuit Court Wes. Dist. Ky., U. S. of America.]

THOS. SPEED,
Clerk of the Circuit Court of the United States
for the Western District of Kentucky,
By HENRY F. CASSIN, D. C.

Allowed by
R. J. BUGG,
Judge Carlisle Circuit Court.

Filed Dec. 23" 1904. B. T. HUEY, Cl'k.
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34 "UNITED STATES OF AMERICA:

The President of the United States to J. U. McKendree, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington within thirty days from the date thereof, pursuant to a writ of error filed in the clerk's office of the Carlisle circuit court, wherein Illinois Central Railroad Company is plaintiff in error and J. U. McKendree is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable R. J. Bugg, judge of the Carlisle circuit court, of Kentucky, this the 21st day of December, in the year of our Lord, one thousand nine hundred and four."

"R. J. BUGG,
Judge of the Carlisle Circuit Court of Kentucky."

Be it further remembered that the said citation herein was placed in the hands of the sheriff of Carlisle county to do execution thereon, and the same was returned to my office with the following endorsement thereon, to-wit:

"Executed in full, by delivering a copy of the within citation to J. U. McKendree, this Dec. 24th, 1904."

"JAY WILLINGHAM, S. C. C.,
By R. W. ROWLAND, D. S."

35 Be it remembered that on the 4th day of November, 1904, the following bill of exceptions No. 1, was filed herein and the same is in words and figures as follows, to-wit:

Carlisle Circuit Court.

J. U. MCKENDREE, Plaintiff,
vs.
ILLINOIS CENTRAL RAILROAD COMPANY, Defendant.

Bill of exceptions No. 1, taken at the trial of the above-styled case, in the Carlisle circuit court, on the 24th day of October, 1904, wherein the Hons. Wickliffe, Wiley & Nichols appeared as attorneys for the plaintiff and the Hons. Bridgwater, Robbins and Thomas appeared for the defendant, before his honor R. J. Bugg, judge of the Carlisle circuit court, and a jury.

36 Be it remembered that upon the trial of this case the plaintiff, J. U. McKendree was introduced as a witness in his own behalf and having been duly sworn testified as follows:

Examined by Hon. J. M. NICHOLS:

1. Tell the jury where you reside?
A. Arlington.

2. I will ask you to tell the jury if you owned some milk cows prior to August 13th?

A. Owned two.

3. Tell the jury where them cows ranged?

A. Out on the commons in town, back and forth, towards town going north there is ten acres of land that belongs to the railroad and they use that and on out to the watering places further north.

4. Now tell the jury how the Illinois Central stock pens are situated as to the public road at that point?

Objections by attorney for defendant.

Overruled by the court.

Exceptions taken by defendant's attorney.

A. It lay between the big road and the railroad right along by the side of the big road.

5. How close was this stock pen to the public highway?

A. They were in three or four feet of the public highway.

6. Well, did them cattle pass that stock pen?

Objections by defendant's attorney.

By the COURT: That's rather leading. I will sustain an objection to the quaes-ion as asked.

37 7. I will ask you if your cattle in going to their range what direction and what range did they go?

A. They would go right north, the bid road, going to the range, and every day pass the road by the stock pens, couldn't held it, and through the stock pens.

8. I will ask you if at any time the stock pens were left open after the cattle were taken out?

A. Yes sir, the stock pens stood open when the cattle was taken out they just left it open and they would go there.

9. I will ask you to tell the jury whether or not there was any palnk fence, walls of any kind, up around that stock pen, during the time these cattle were in there and immediately following?

A. Nothing only a common fence to hold them in there.

10. Describe it?

A. It was just a common plank fence seven or eight planks high.

11. Was that fence built with the planks running long wise or up and down?

A. Length wise.

12. Any closed walls?

A. No, just open.

13. Well, I will ask you if your cattle contracted any disease and idf so what that disease was pronounced to be?

Objections by defendant's attorney.

By the COURT: You needn't state what it was pronounced to be.

38 A. They contracted a disease, yes, sir, and died.

14. How were thay affected?

A. Well, they would stand with their heads stuck down until they just died.

15. What did they have in them?

A. Ticks.

16. State whether these cattle were examined by a veterinary?

A. Yes, sir.

17. I will ask you whether or not your premises were quarantined by any authority and if so what?

Obeections by defendant's attorney.

Overruled by the court.

Exceptions taken by defendant's attorney.

A. Yes, sir, quarantined by some authority, State or Government, quarantined for three or four months.

18. Why was that done?

Objections by defendant's attorney.

Sustained by the court.

Exceptions taken by the plaintiff.

19. What was your cattle reasonable worth?

A. There was one of them was worth $50.00 and the other was worth $30.00 or $35.00.

20. Was the- a post mortem examination held over these cattle of yours?

A. You mean——

By the COURT: After death.

39 A. Not mine, they did one.

By the COURT: Well, we are just investigating yours now.

21. *They* were post mortem examinations over cattle that died at the same time yours did?

A. Yes, sir, the same day and at the same place.

22. Did you see the Jones cattle?

A. Yes, sir, in the stock pens.

23. How long were they there before your cattle contracted the disease?

A. I can't tell just the date, they was there some ten or fifteen days before I noticed mine being sick.

24. I will ask you to state whether or not there was a number of cattle that contracted a similar disease as yours and died right along aboue the same time?

Objections by defendant's attorney.

By the COURT: He had better not answer that.

Exceptions by plaintiff.

Cross-examined.

By Hon. GUS THOMAS:

1. You say this was about fifteen days after the Jones cattle was taken out of the pen that your cattle contracted this disease?

A. I am not sure as to the time, something like that.

40 2. How long did the Jones cattle stay in the pens?

A. Oh I don't know, perhaps unloaded on one day and staid there until the next day or the next day after that?

3. They were in this pen that you have described here before in your testimony?

A. Yes, stock pen.

4. About how high is the fence around that pen?

A. Five or six feet high?

5. How large is the pen?

A. I expect it was as large as this house.

6. What became of these cattle?

A. I don't know.

7. You say that the Jones cattle which were the cattle shipped by the company were taken out of the pen and the pen was left open?

A. Yes.

8. Did your cows go into that pen after that?

A. They could have done it.

9. Do you say that they did do it?

A. I say they got that fever there and got them ticks on them from some cause.

10. I asked you did they go into the pen?

A. I don't know.

11. How old were your cows?

A. One of them was six years old and the other was seven.

12. What kind of stock were they?

A. One was a Jersey cow and the other was a Durham.

41 13. How long were they sick?

A. Why, from the time I found the ticks on them *one them* one of them was only sick about two days and the other one was sick six or seven days.

14. Did you continue to let them run out much, run out at large after they were sick?

A. No, the Joursey cow when I found her she couldn't run.

15. I dont' mean get out and run?

A. I understand.

16. Did she run at large?

A. After I found her she died in a few hours afterwards.

17. Up to that time she had been running at large hadn't she?

A. Yes sir.

18. And the other one had too?

A. Yes sir.

42 Be it further remembered that upon the trial of this case plaintiff introduced as a witness in his behalf and had sworn E. D. HOUSE who testified as follows:

Examined by Hon. J. N. NICHOLS:

1. I will ask you to tell the jury where you live?
A. Arlington, Ky.
2. What position do you hold at Arlington?
A. I am the agent for the I. C.
3. What position did you hold the last July?
A. The same thing.
4. Have you got a record of the I. C. Railroad Company that shows a list of the cattle received?

Objections by attorney for the defendant.

By Mr. THOMAS: We admit the shipping of the cattle from Grand Junction to Arlington, it is admitted in the pleadings.
By the COURT: It stands admitted, don't persue it further.

5. I will ask you at the time these cattle were received by you if you had an order in your office something like this?

Objections by defendant's attorney.
Sustained by the court.
Exceptions taken by the pl'e'ff.

6. How long did the Jones cattle remain in the pens at Arlington?
A. They came in on Saturday night, I don't know just what time, I suppose along about mitnight, I usually left the office at
43 eight o'clock and they wasn't in the pens when I come on duty at seven o'clock Sunday morning.
8. Did you see them at all?
A. No, sir, I didn't.

Cross-examined.

By Hon. GUS THOMAS:

1. If I understand you then they came into the pens between eight o'clock, the time you left, and had been removed by seven o'clock the next morning when you came in?
A. Yes, sir.

44 Be it further remembered that upon the trial of this case the plaintiff introduced as a witness in his behalf and had sworn R. H. Brown who testified as follows:

Examined by Hon. J. M. NICHOLS:

1. Tell the jury where you live?
A. About three miles north of Arlington.
2. I will ask you to tell the jury if you know anything about the

Jones cattle that were shipped from the South last summer, J. A. Jones?

A. I pastured them eight days on my place.

3. Where were they brought from when they were put on your place?

A. Brought from town.

4. From Arlington?

A. Yes, so Mr. Jones says.

Objections by defendant's attorney.

Overruled by court.

Exceptions taken by defendant.

5. What was the condition of the cattle at the time they came to your farm?

A. Well sir, I wasn't closer that two or three hundred yards to the cattle the day he brought them out, and only saw them once while they were there, possibly two or three days after he brought them, they were a scalawag looking lot of cattle to me, southern cattle.

6. What was the result of them cattle being on your place, what resulted from the cattle?

45 Objections by defendant.

Overruled by the court.

Exceptions by the defendant.

A. How am I to determine whether anything developed from the cattle or not, I can state that I lost a lot of cattle beginning some six weeks after they were put in my pasture.

By Mr. THOMAS: I object and move to exclude that.

Overruled by the court.

Exceptions by defendant.

By the COURT: Go on and state.

A. On the 13th day of July, Jones brought 39 head of cattle to my pasture and left them there eight days, and the first one I lost I think was the 27th of August, forty or forty five days after he brought them out, and then I lost them right along for several weeks until I lost sixteen head, and lost one this spring, one that never entirely rallied I didn't think from the disease.

Objections by defendant's attorney.

By COURT: What was the matter with your cattle?

A. I am not a veter-narian.

By the COURT: Tell how they were affected?

A. They were covered with ticks and become feeverish and would stand about in branches.

Exceptions by defend-nt's attorney.

A. And their heads dropped and their ears dropped down and they lingered along that way for a few days and some times for sev-

eral weeks. I didn't lose all I had, six calves and six older ones pulled through.

46 8. I will ask you if you noticed any ticks on these cattle?
A. Which cattle, mine?

9. Yes.

A. Yes, sir.

10. Did you notice the Jones cattle?

A. No, sir, I never was near any of the Jones cattle but once and didn't pay special attention to them.

11. Where did you- cattle get the ticks?

A. I don't know, I never permit any of my cattle on the outside and they were never off of my place, and I just supposed, you know, that they got them from the Jones cattle.

Objections by defendant's attorney.
By COURT: Yes, you needn't state that.

13. I will ask you if your farm was visited by the State of Federal veterinary and if so was there any quarantine established there?

A. Objections by defendant's attorney.
Overruled by court.
Exceptions by defendant.

A. Yes, sir, the State board of health quarantined my place on account of the Texas fever.

Objections by defendant's attorney.
Overruled by court.
By Mr. THOMAS: We move to exclude that.
Overruled by court.
47 Exceptions by defendant.

14. Was there a post mortem examination held over your cattle?

By the COURT: Never mind.

Cross-examined.

By Hon. GUS THOMAS:

1. Did any of the Jones cattle die while on your place?
A. No, sir.

By the COURT: It is admitted that Grand Junction, Tenn. from whence the cattle was shipped is south of the quarantine line established by the United States Government.

By the COURT: The plaintiff now offers B. A. I. orders number 107, and amendments one to fifteen to said order, to which the defendant objects, objections overruled and said order is permitted to be introduced as evidence and read, to which defendant excepts, said order being in words and figures as follows, to-wit:

48 DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C.

I, James Wilson, Secretary of the Department of Agriculture of the United States of America, do hereby certify that the following and annexed are true and correct copies of B. A. I. order No. 107 and of amendments No. 1 to 15 to said order No. 107, the origonals being in the department's files.

In witness whereof I have set my hand and affixed the seal of the department.

Done at Washington, this six- day of May, one thousand nine hundred and four.

[SEAL.] JAMES WILSON, Secretary.

49 (B. A. I. Order No. 107.)

Regulations to Prevent the Spread of Splenetic Fever Among Cattle.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., March 13, 1903.

To managers and agents of railroads and transportation companies of the United States, stockmen, and others:

In furtherence of the regulations for the suppressing and extirpating of contagious and infectious diseases among domestic animals in the United States, dated March 10, 1903 (B. A. I. order No. 106), notice is hereby given that a contagious and infectious disease known as splenetic, southern, or Texas, fever exists among cattle in the district described below:

1. All that country lying south or below, a line beginning at the north west corner of the State of California; thence east, south and southeasterly along the boundary line of said State of California to the southeastern corner of said State; thence southerly along the western boundary line of Arizona to the south west corner of Arizona; thence along the southern boundary lines of Arizona and New Mexico to the south eastern corner of New Mexico; thence northerly along the eastern boundary of New Mexico to the southern line of the State of Colorado; thence along the southern boundary lines of Colorado and Kansas t- the south eastern corner of Kansas; thence southerly along the western boundary line of Missouri to the southwestern corner of Missouri; thence easterly along the southern boundary line of Missouri to the southwestern corner of Missouri to the western boundary line of Dunklin county; thence easterly along the southern boundary line of Missouri to the Mississippi river; thence northerly along the Mississippi river to the northern boundary line of Tennessee at the north west corner of Lake county;

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thence easterly along said boundary line to the north east corner of Henry county; thence in a northerly direction along the boundary of Tennessee to the north west corner of Steward county; thence in an eastern direction along the *norenth* boundary of Tennessee to the north western corner of Virginia; thence northeasterly along the western boundary line of Virginia to the northern most point of Virginia; thence southerly along the eastern boundary line of Virginia, where it joins the south eastern corner of Maryland at the Atlantic ocean.

51 2. When ever any State or Territory located above or below said quarantine line, as above designated, shall duly establish a dif-erent quarantine line, and obtain the necessary legislation to enforce said last mentioned line strictly and completely within the boundaries of said State or Territory, and said last above mentioned line and the measures taken to inforce it are satisfactory to the Secretary of Agriculture, he may, by a special order, tempo-rar-ly adopt said State or Territory line.

Said adoption will apply only to that portion of said line specified, and may cease at any time the Secretary may deem it best for the interest involved, and in no instance shall said modification exist longer than the period specified in said special order; and at the expiration of such time, said quarantine line shall revert without further order to the line first above described.

52 Whenever any State or Territory shall establish a quarantine line, for above purposes, dif-erently located from the above described line, and shall obtain by legislation the necessary laws to enforce the same completely and strictly, and shall desire a morification of the Federal quarantine line to agree with such State or Territory line, the proper anthorities of such State or Territory shall forward to tbe Secretary of Agriculture a true m*at* or description of such line and a copy of the laws for enforcement of same, duly authenticated and certified.

3. Cattle are to – transported from said area so-th, or below said Federal quarantine line above described to any portion of the United States above north, east, or west of the above described line, except as hereinafter provided.

4. Cattle from area may be transported by rail or boat for immediate slaughter and when so transported the following regulations must be observed:

(*a.*) When any cattle in course of transportation from said area are unloaded above, north, east or west of this line to be fed or watered, or for other purposes, said cattle shall be placed in pens or yards set apart for infected cattle, and no other cattle shall be admitted thereto.

(*b.*) On unloading said cattle at their point of destination chutes, *always*, and pens, sufficiently isolated, shall be set apart to receive them, and no other cattle shall be admitted to said chutes, pens, and alleyways: and the regulations relating to the movement of cattle from said area, prescribed by the cattle sanitary officers of the State

where unloaded shall be carefully observed. The cars or boats that have carried said stock shall be cleansed and disinfected as soon as possible after unloading and before they are again used to transport, store, or shelter animals or merchandise.

53 (c.) Where southern cattle and cattle origonating out side of the quarantine districts are yarded in adjacent pens, there shall — left a space between them not less than ten feet wide, and there shall be on each side of this space, which shall not be used for cattle, a tight board fence not less than five feet high.

(d.) All cars carrying cattle from said area shall bear on both sides printed placards, the letter of which shall be plain and not less than 1 & ½ inches in hight, to be affixed by the railroad company hauling the same, stating that said cars contains southern cattle; and each of the way bills, conductors' manifests and bills of lading of said shipments by cars or boats shall have a note plainly written or stamped upon its face with a similar statement. The placards shall state the name of the place from which the shippment was made, with the date, and the name of the place of destination: said date must correspond with the waybill and other papers. Whenever any cattle have come from said area and shall be reshipped from any point at which they have been unloaded to other points of destination, the cars carrying said animals shall bear on both saide similar placards with like statements, and the waybills, conductors' manifests, or bills of lading be so stamped. At whatever point these cattle are unloaded they must be placed in separate pens to which no other cattle shall be admitted.

(e.) No boat having on board cattle from said district shall receive on board cattle from outside of said district. Cattle from said district shall not be received on board when destined to points outside of said district where proper facilities have not been provided for transferring the said cattle from the landing to the stock yar-s and slaughter houses without passing over public highways, unless per-

54 mission for such passing is first obtained from the local authorities.

(f.) The cars and boats used to transport such animals the chutes, alleyways, and pens used during the transportation and at points of destination shall be disinfected in the following manner:

Remove all litter and manire. This litter and manure may be disinfected by mising it with lime saturating it with *it* a 5 per cent. solution of 100 per cent. carbolic acid; or, if not disinfected, it may be stored where no cattle can come in contact with it from February 1, to November 15, of each year.

Wash the cars and feeding and watering troughts with water until clean.

Saturate the entire interior surface of the cars and the fencing, troughs chutes and floors of the pens with a mixture made of 1½ pounds of lime and ¼ pound of 100 per cent. straw color-d carbolic acid to each gallons of water or a solution made by dissolving four ounces of chloride of lime to each gallon of water may be used;

or disinfect the cars with a *jet* of steam under a pres-ure of not less than fifty pounds to the square inch.

(*g*.) Cars which have carried cattle within the quarantine districts shall be cleaned and disenfected before teken out of said district, except when loaded with cattle in course of transportation in accor-ance with these regulations.

5. Cattle from the Republic of Mexico may be admitted into the United States after inspection in accordance with law, as follows: cattle free from splenetic, or Texas, fever and from contact therewith during the six months preceeding such inspection, and which have graved in a locality free from infection of such fever, may be
55 admitted into any part of the United States.

If destined to points in the non-infected area, a special permit must be obtained from an inspector of the Bureau of Animal Industry, said permit being issued according to the regulations of said bureau. The cattle for which said permit is issued must not be driven through the infected area nor be unloaded in any part thereof except at such a point as may be duly designated by an order issued by this department.

If shipped in infected cars or unloaded in disinfected area except as above stated, they will be subject to the regulations concerning infectious cattle.

6. Notice is hereby given that cattle infected with the Boophilus annulatus (B. bovis), or southern cattle tick disseminate the contagion of splenetic, southern, or Texas, fever; therefore cattle origonating outside of the district described by this order or amendments thereof, and which are infested with the Boothilus annulatus ticks, shall be considered as infectio-s cattle and shall be subject to the rules and regulations governing the movement of southern cattle.

7. Stock yard companies receive- cattle infected with such ticks shall place such cattle in the pens set apart — aside for the use of southern cattle; and transportation companies are required to clean and disinfect all cars and boats which have contained same, according to the requirements of this department.

8. Inspectors are instructed to see that disinfection is properly done, and to report instances of improper -infection and other violations of this order.

9. Violations of these regulations is punishable by a fine of not less than one hundred dollars nor more than one thousand
56 dollars or by imprisonment not more than one year, or by both such fine and imprisonment.

10. These regulations supersede B. A. *L.* order No. 101, and amendments thereto.

(Signed) JAMES WILSON, Secretary.

57 Amendment No. 1 to B. A. I. Order No. 107.

Special Order Modifying Quarantine Line for the State of California.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., March 14, 1903.

In accordance with the regulations to grevent the spread of splenetic fever of cattle, the State of California, has agreed to establish and coöperate in the inforcement of a quarantine line located as follows:

Beginning on the Pacific coast where the northern boundary line of Monterey county connects with the Pacific ocean; thence easterly and southerly along the northern and eastern boundary lines of Monterey county to its junction with the western boundary of Fresno county; thence northerly along the western boundary of Fresno county to the western corner thereof; thence northerly, easterly, and southerly along the western, northern, and eastern boundary line of Merced county to the south east corner thereof; thence north easterly along the northern boundary of Madera county to the north east corner thereof; thence southerly and easterly along the easetrn boundary line of Madera Fresno, and Tulare counties to the south east corner of Tulare; thence easterly along the southern boundary line of Inyo county to its intersection with the eastern boundary line of the State of California; and whereas said quarantine line as above set forth is satisfactory to this department, and legisla-
58 tion has been enacted by the State of California to enforce said quarantine line, therefore the above quarantine line is adopted for the State of California by this department for the period beginning with the date of this order and ending December 31, 1903, in lieu of the quarantine line described in the order of March, 13, 1903, for said area, unless otherwise ordered.

It is further ordered, that, during the continuance of the above line no cattle origonating in the quarantined area described in B. A. *L.* order No. 107, as modified, shall be moved or allowed to move into the counties of Kern, Tulare, Kings, Monterey, Fresno, Madera, and Merced; and that cattle now in said counties may be moved to points out side of the quarantine area for purposes other than immediate slaughter upon the inspection and certification that they are f-ee of infection by a duly authorised office- of the county board of supervisors, and that a said certificate be approved and signed by the State veterinarian. This privilege is granted upon condition that the board of supervisors in each of said counties adopt and encorce efficient measures to prevent the introducing into and the dissemination within the county of the contagion of south-

ern cattle fever, and that it prosecute measures for the eradication of said disease.

JAMES WILSON, Secretary.

(Amendment No. 2 to B. A. I. Order No. 107.)

Special Order Modifying Quarantine Lines for the State of California.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

59 In accordance with the regulations to prevent the spread of splenetic fever of cattle, the State of Texas has agreed to establish and to coöperate in the enforcement of a quarantine line located as follows:

Beginning at the intersection of the southern boundary of New Mexico with international boundery line at the Rio Grande river thence south easterly along said international boundary line to the south west corner of the county of Pecos; thence following the western boundary of Pecos county to the south east corner of Reeves county; thence following the boundary line between the counties of Pecos and Reeves to the Pecos river; thence south easterly following the Pecos river to the north west corner of Crockett county; thence east along the northern boundary of Crockett and Schleicher counties to the south eastern corner of Irion county; thence north along the eastern boundary of Irion county to the north east corner of said county; thence continuing due north to the southern boundary line of Coke county; thence west with the southern boundary of Coke county to the south west corner of Coke county; thence north along the western boundary of Coke county to the southern boundary of Mitchell cou-ty; thence east to the south east corner of Mitchell county; thence north along the eastern boundary of Mitchell county to the north east corner of said county; thence east along the southern boundaries of Fisher and Jones counties to the south east corner of Jones county; thence north along the eastern boundary of Jones county to the north east corner of said county; thence east along the southern boundary of Haskell county to the south east corner of said county; thence north along the western bound-
60 ary lines of Throckmorton and Baylor counties to the north west corner of Baylor county; thence east along the southern boundary of Wilbarger county to the south east corner of said county; thence north along the eastern boundary of Wilbarger county to the Red river; thence continuing in a north westerly direction along the course of said river and the northern boundary of Texas to the south east corner of Greer county Oklahoma, Territory.

And whereas said quarantine line, as above set forth, is satisfactory to this department, and legislation has been enacted by the State of Texas to enforce said quarantine line, therefore the above quarantine line is adopted for the State of Texas by this department for the period beginning with the date of this order and ending December 31, 1903, in lieu of the quarantine line described in the order of March, 13, 1903, for said area, unless otherwise ordered.

It is further ordered, that, during the continuance of the above line, no cattle origonating in the quarantine area as described in B. A. L. order No. 107, as modified, shall be moved or allowed to move into the counties of Baylor and Throckmorton, and that portion of the county of Pecos lying north and west of the line described as follows:

Beginning at the west line of Pecos county, and the point where the road bed of the G. H. & S. A. railroad crossed said line: thence in a easterly direction with the center of said road bed to a point on section No. 36, block A. 2, G. H. & S. A. Railroad Company; thence north with the pasture fence running in a northerly direction through the eastern part of section Nos. 13 and 12 of said block A. 2, and across section No. 1, G. C. & S. F. Railroad Company; thence continuing north with said pasture fence through the eastern part of section- Nos. 16, 17 46, 47, 76, 77, 106, 107, 136, 137, 142,
61 143 and 193 block D. M. K. & T. E. Railroad Company; thence continuing in a northerly direction to a point on the north line of section No. 6, block 160, G. C. & S. F. Railroad Company, same being corner of pasture fence; thence east with the north line of section- Nos. 6, 9, 10, 11, 12, 15, 16 block 160, G. C. & S. F. Railroad Company to the north east corner of said section No. 16, same being corner of pasture fence; thence in a northerly direction with the east boundary lines of sections Nos. 22, 21, 20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, block 1, C. C. S. D. & R. G. N. G. Railroad Company, to the north east corner of said section 32; thence west with the north boundary lines of section- Nos. 32 and 33, same block, to the north west corner of section No. 33, block I. C. C. S. D. & R. R. G. N. G. Railroad Company, corner of fence; thence north with the east boundary line of sections Nos. 1, 12, 13, 24, 25, 36, 37, 48, 49, 60, 61 and 72, block 2, C. C. S. D. & R. G. N. C. Railroad Company, to the north east corner of said section No. 72; thence in and easterly direction with the fence to the south east corner of section No. 9, paptented to James E. Evans; thence north with the east line of said section No. 9, to the north west corner of section No. 100, block A. 2, T. C. Railroad Company; thence east with the north boundary line of said sections Nos. 11, and 89, block 2 T. G. Railroad Company; thence north with the east boundary line of sections Nos. 90, 91, 92, and 93, to the south east corner of section 94, block A. 2, T. C. Railroad Company; thence north and west diagonally across section No. 94 to the north west corner of said section; thence continuing in a north westerly direction, diagonally across sections Nos. 14, 18, and 28 to the north east corner of section No. 29, bloc

C. 4, G. C. C. & S. F. Railroad Company; thence west with
62 the north boundary line of said section No. 29 to the north west corner of said section; thence north west diagonally across section No. 1, T. C. Railroad Company, section No. 97, block No. 194, G. C. & S. F. Railroad Company, to the north east corner of said section No. 96; thence in a northerly direction across section No. 94 to a point on *it* its north boundary line 600 varas west of its north east corner; thence continuing north through sections Nos. 93, 90, 89, 85, and 58, block 194, G. C. & S. F. Railroad Company, to a point on the north boundary line of said section No. 58; thence north westerly with the pasture fence through section No. 59, to the north eastern corner of section No. 82 and the south east corner of section 81, same block; thence continuing north westerly to section No. 17, H. & G. N. Railroad Company; thence north with the east line of said section 17 to the Pecos river; thence north westerly with said Pecos river to the north west corner of Crockett county.

It is further ordered that no cattle shall be moved or allowed to move from the counties of Cottle, Hardeman, Foard, Wilbarger, King, Knox, Stonewall, Jones, Fisher, Scurry, Garza, Borden, Howard, Mitchell, Glasscock, Sterling, Irion, West Tom Green, Upton, Crane, Throckmorton and Baylor, and that portion of the county of Pecos as described above, to any of that territory in the State of Texas lying west and north of said counties except after having been inspected and found free of infection by duly authorized inspectors of this department or of the State of Texas, and upon written permission by such officer. No cattle from said counties shall be moved or allowed to move to State or Territory outside of the quarantine district (except as provided for immediate slaughter)
63 unless they have been duly inspected and passed and permit issued by the inspectors of this department, not until permission has been obtained from the proper officials of the State or Territory to which said cattle are destined.

JAMES WILSON, Secretary.

(Amendment No. 3 to B. A. I. Order No. 107.)

Special Order Modifying the Quarantine Line for the Territory of Oklahoma.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., March 14, 1903.

In accordan-e with the regulations to prevent the spread of splenetic fever of cattle, the Territory of Oklahoma has agreed to establish and to coöperate in the enforcement of a quarantine line located as follows:

Beginning on the Red river at the south eastern corner of the county of Greer; thence northerly following the course of the north fork of Red river at its intersection with the southern boundary line of Roger Mills county; thence east along the southern boundary lines of Roger Mills county and Washita county to the south east corner of Washita county, thence north along the eastern boundary lines of Washita and Custer counties to the Canadian river; thence in *the* a southeasterly direction along the course of said river to the south east corner of Canadian county; thence north along the
64 eastern boundary line of Canadian county to the north west corner of Cleveland county; thence east along the northern line of Cleveland county to the middle of the right of way of the Atchison, Topeka and Santafee railway; thence northerly following the middle of said right of way through Oklahoma, Logan, Noble, and Paynes counties, and the Otoe, Missouri and Ponca Indian reservation to the northern boundary of the Ponca Indian reservation; thence east along the northern boundary of the Ponca Indian reservation to the Arkansas river; thence in a northerly direction following the course of said river to its intersection with the thirty seventh parallel of the northern latitude at the southern boundary of Kansas.

And where said quarantine line as above set forth, is satisfactory to this Department, and legislation has been enacted by the Territory of Oklahoma to enforce said quarantine, therefore the above quarantine line is adopted for the Territory of Oklahoma by this Department for the period beginning with the date of this order, and ending December 31, 1903, in lieu of the quarantine line described in the order of March 13, 1903, for said area, unless otherwise ordered.

It is further ordered that, during the continuance of the above line, no cattle shall be moved or allowed to be moved from the counties of Greer, Roger, Mills, Wishita, Custer, Blaine, (north of the Canadian river) Canadian, and that part of the counties of Oklahoma, Logan, Payne, and Noble, and of the Otoe, Missouri and Ponca Indain reservation lying west of the right of way of the Atchinson, Topeka & Santafee railway, to any of that part of the Territory of Oklahoma lying west and north of said line, excepts after having been inspected and found free of infection by duly
65 authorized instectors of this Department or of the Territory of Oklahoma, and upon written permission by such officer, nor to any State or Territory out side of the quarantine district, (except as provided for immediate slaughter, unless they have been duly inspected and passed, and permit issued by inspectors of this Department nor until permission has been obtained from the proper officials of the State or Territory to which destined.

JAMES WILSON, Secretary.

(Amendment No. 4 to B. A. I. Order No. 107.)

Special Order Modifying Quarantine Line for the State of Tennessee.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., March 14, 1903.

In accordance with the regulation to prevent the spread of splen-tic fever of cattle, the State of Tennessee has agreed to establish and to coöperate in the inforcement of a quarantine line located as follows:

Beginning on the Mississippi river at the south east corner of the State of Missouri at the western boundary of Tennessee; thence southerly along the western boundaries of the counties of Dyer and Lauderdale,; thence following the main channel of the Missi-ppi riaver (leaving Island No. 37 to the north and west) to the north west corner of Shelby county on the Mississippi river; thence 66 easterly along the northern boundary line of Shelby and Fayette counties to the south western corner of Haywood county; thence northerly and easterly along the western and northern boundary lines of Haywood county to the north eastern corner of said county; thence easterly along the northern boundary lines of Madison county to the south western corner of Carroll county; thence northerly and easterly along the western and northern boundary lines of Carroll county to the north east corner of said county; thence southerly along the eastern boundary of said county to its intersection with the N. C. & St. L. railway; thence easterly along the maddle of the road bed of said railroad through Benton county to the intersection of the N. C. & St. L. railway with the Tennessee river at the eastern boundary of Benton county; thence south along the eastern boundaries of Benton and Decatur counties to the north west corner of Wayne county; thence easterly along the northern boundary *of* lines of Wayne and Lawrence counties to the north eastern corner of Lawrence county; thence south along the eastern boundary of Lawrence cou-ty to the south east corner thereof; thence east along the southern boundary of Giles county to the Elk river; thence north easterly along said river through Giles and Lincoln counties to the eastern boundary of Lincoln county; thence northerly and easterly along the west and northern boundary of Moore county to the north east corner of Moore county; thence north along the western boundary lines of Coffee and Cannon counties to the north west corner of Cannon county; thence north easterly and south easterly along the northern and eastern boundaries to Cannon county to the boundary of Warren county; thence easterly along the northern boundary of Warren county to the western boundary of White county; thence north easterly and south

easterly along the western and northern boundary of White
67 cou-ty to the western boundary of Cumberland county; thence southerly, easterly, and northeasterly along the western, southern, and eastern boundaries of Cumberland county to the northern corner of Rhea county; thence southerly along the eastern boundary line of Rhea and James counties to the north west corner of Bradley county; thence northly and south easterly along the northern boundary line of Bradley and Polk counties to the north north east corner of Polk county; thence south along the eastern boundary line of Polk county to the south east corner thereof at the south western corner of North Carolina.

That portion of the quarantine line of the State of Virginia, described in the order of March 14, 1903, (amendment No. 7 to B. A. L. No. 107) beginning at the south western corner of Virginia (Lee county) and extending east along the southern boundary line of Virginia to the southeastern corner of Washington county is hereby suspended during the enc*ofc*ement of the above line for the State of Tennessee.

And whereas said quarantine line, as above set forth, is satisfactory to this department, and legislation has been enacted by the State of Tennesse to inforce said quarantine line, therefore the above line is adopted for the State of Tennessee by this department for the period beginning with the date of this order and ending December 31, 1903, in lieu of the quaraantine line described in the order of March 13, 1903, for said area, unless otherwise ordered.

It is further ordered that, during the continuance of the above line, cattle now in the western and northern parts of Carroll county may be moved for perposes other than immediate slaughter to *to* States and Territories out side of the quarantine area after having been inspected and found free of infection by an inspector of this department, and upon written permassion by such office.

JAMES WILSON, Secretary.

68 (Amendment No. 5 to B. A. I. Order No. 107.)

Special Order Modifying Quarantine Line for the State of Georgia.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

In accordance with the regulations to prevent the spread of splenetic fever of cattle the State of Georgia has agreed to establish and to coöperate in the inforcement of a quarantine located as follows:

Beginning at the intersection of the western boundary line of Union county with the boundary lines between the States of Georgia

and North Carolina; thence southerly along the western boundary of Union county to the south west corner thereof; thence north easterly and easterly along the southern boundary lines of Union and Towns counites to the western corner of Rabun county; thence easterly, south easterly and north easterly along the western, southern, and eastern boundaries of Rabun county to the north east corner of said county on the boundary between Georgia and North Carolina. That portion of the quarantine line for the State of North Carolina described in the order of March 14, 1903 (amendment No. 6 to B. A. I. order No. 107).

Beginning at the intersection of the north west corner of Union county, Georgia, with the State line, extending east along the southern boundary line of North Carolina to the north east corner of Rabun county, is hereby suspended during the inforcement of the above line for the State of Georgia.

And whereas, said quarantine as above set forth is satisfactory to this department, and legislation has been enacted by the State of Georgia to enforce said quarantine line, therefore the above
69 quarantine line is adopted for the State of Georgia by this department for the period beginning with the date of this order and ending December 31, 1903, in lieu of this quarantine line described in the order of March 13, 1903, for said area, unless otherwise ordered.

JAMES WILSON, Secretary.

(Amendment No. 6 to B. A. I. Order No. 107.)

Special Order Modifying Quarantine Line for the State of North Carolina.

(1903.)

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1904.

In accordance with the regulation to prevent the spread of splenetic fever in cattle, the State of North Carolina has agreed to establish and|to coöperate in the enforcement of a quarantine line located as follows:

Beginning at the south west corner of the county of Cherokee; thence east along the southern boundary line of the counties of Cherokee, Clay, Macon, Jackson, Transylvania and Henderson to the south west corner of the county of Polk; thence northerly along the western boundaries of Polk and Rutherford counties to the southern boundary of McDowell county; thence westerly, northerly and north easterly along the southern, western and northern boundaries of McDowell county to the western boundary of Burt county; thence southerly along the western boundary *of* line of Burke county to the

Catawaba river; thence easterly along the course of said river to the south western corner of Alexander county; thence north along the western boundary of Wilkes county; thence north westerly
70 along the boundary; thence north along the western boundary of said county to the southern boundary of Wilkes county; thence north westerly along the boundary line of Wilkes county to the western corner of said county; thence following the western and northern boundary lines of Wilkes county to the western portion of Surry county; thence north easterly along the western boundary line of Surry county to its intersection with the northern boundary line of the State of North Carolina.

That portion of the quarantine line for the State of Virginia, described in the order of March 14, 1903, (amendment No. 7. to B. A. I. order No. 107), beginning at the south west corner of Grayson county and extending east along the southern boundary line of Virginia to the south eastern corner of said county, is hereby suspended during the inforcement of the above line for the State of North Carolina.

And where said quarantine line, as above set forth, is satisfactory to this department, and legislation has been enacted by the Sta- of North Carolina to enforce said quarantine line, therefore the above quarantine line is adopted for the State of North Carolina by this department for the period beginning with the date of this order, and ending December 31, 190$, in lieu of the quarantine line described in the order of March 13, 1903, for said area, unless otherwise ordered.

It is further ordered, that, during the continuance of the above line, no cattle origonating in the quarantine districts as described in B. A. I. order No. 107, as modified, shall be moved or allowed—moved into the counties of Surry, Wilkes, McDowell, and that part of Burke south of the Catawba river.

And it is further ordered, that no cattle shall be moved or allowed to move from the county- of Surry, Wilkes, McDowell, and that part of Burkes south of Catawba river, to any of that
71 territory in the State of North Carolina lying west and north of said counties, except after having been inspected and found free of infection by duly authorized iuspectors of this department of the State of North Carolina and upon written permission by such officer. No cattle from said counties shall be moved or allowed to be moved to any State or Territory outside of the quarantine district (except as provided for immediate slaughter) unless they have been duly inspected and passed, and permit issued by inspectors of this department, nor until permission has been obtained from the proper officails of the State or Territory to which destined.

JAMES WILSON, Secretary.

(Amendment No. 7 to B. A. I. Order No. 107.)

Special Order Modifying Quarantine Line for the State of Virginia.

(1903.)

U. S. DEPARTMENT,—
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

In accordance with the regulations to prevent the spread of splenetic fever of cattle, the State of Virginia has agreed to establish and to coöperate in the inforcement of a quarantine line located as follows:

Beginning at the boundary line of Virginia at its south western corner (Lee county); thence east along the southern boundary of Virginia to the south western corner of Patrick county; thence northerly along the western boundary of Patrick and Frank-
72 lin counties to Daniel's run; thence easterly along Daniel's run and the Black Water river to the Staunton river; thence in a south easterly and north easterly direction along the southern and eastern boundaries of Bedford county to the James river; thence following the James river to the south eastern corner of Charles City county; thence northerly and easterly along the western and northern boundaries of James City county to the western boundary of Gloucester county to the York river; thence southerly and northerly along the southern and eastern boundaries of Gloucester county to the north eastern corner of said county; thence easterly and southerly along the northern and eastern boundaries of Mathew's county to the south eastern point of said county; thence south — the northern boundary of Elizabeth City county; thence westerly and northerly along the boundaries of Elizabeth City and Warwick counties to the James river; thence southeasterly along the course of said river to the north west corner of Norfolk county; thence south along the western boundary of said county to its intersection with its northern boundary of North Carolina; thence east along the southern boundary of Norfolk and Princess Ann counties counties to the Atlantic ocean.

And whereas said quarantine line, as above set forth is satisfactory to this department and legislation has been enacted by the State of Virginia to enforce said quarantine line, therefore the above quarantine line is adopted for the State of Virginia, by this department for the period beginning with the date of this order and ending December 31, 1903, in lieu of the quarantine line described in the order of March, 13, 1903, for said area, unless otherwise ordered.

JAMES WILSON, Secretary.

73 (Amendment No. 8 to B. A. I. Order No. 107.)

Feeding Stations in the Quarantine District for Uninfected Cattle.

U. S. DEPARTMENT OF AGRICULTURE,
OFFIRE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

It is hereby ordered, that cattle origonating out side north east and west the quarantined district as defined in order of March 13, 1903, (B. A. I. No. 107), and amendments thereto, and which are to be transported by rail through the quarantine districts, may be unloaded for rest, feed and watered into uninfected pens set apart for such cattle at Polk stock yards and Union stock yards, Fort Worth, Texas; Baird, Texas; Southern Pacific Railway stock yards, Los Angeles, Calilornia, Bakerfield, California, and at Salisbury, North Carolina;

Provided, that the cattle are free from southern cattle ticks and have not been unloaded at any place within the quarantine districts. They may be, after unloading into said pens, be re-loaded into the same cars from which unloaded, or into other cleaned and disinfected cars, and reshipped as uninfected cattle.

JAMES WILSON, Secretary.

(Amendment No. 9 to B. A. I. Order No. 107.)

Special Order Permitting Movement of Cattle from Two Northern Tiers of Counties in Arkansas.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

74 It is hereby ordered, that B. A. I. order No. 107, dated March 13, 1903, be amended so as to permit the shipment of cattle for purposes other than immediate slaughter from the two northern tiers of counties in the State of Arkansas into non-infected area; provided, that said cattle have remained in the above described counties since January 1, of this year and have been inspected by officers of the Bureau of Animal Industry of this department and found to be free of splenetic or Texas fever, and not to have been exposed to the contagion thereof; that proper facilities have been afforded for making such inspection and that after inspection the cattle shall be shipped without delay and without exposure to the infection of splenetic or Texas fever.

Provided further, that no cattle shall be allowed shipment under this order unless accompanied by written permit issued by an inspector of the Bureau of the Animal Industry, nor shall such

cattle be taken unto any State or Territory contrary to the local regulations, and said permission will be granted only for cattle which are to remain within the State to which destined for three months after arrival.

This order to remain in force until April 1, 1903.

JAMES WILSON, Secretary.

(Amendment No. 10 to B. A. I. Order No. 107.

Special Order Permitting Movement of Cattle from Part of Ponca Indian Reservation.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., March 14, 1903.

75 It is hereby ordered, that section 3 of B. A. I. order No. 107, dated March 13, 1903, be amended so as to permit the shipment of cattle for other purposes than immediate slaughter to points in the non-infected area from that portion of the Ponca Indian reservation, Oklahoma, east of the right of way of the Atchison Topeka and Santafee railway, and bounded on the east and north by the Arkansas river and the Salt fork of the Arkansas river; provided, that said cattle have been kept in the above described area since January 1, 1903, and have been inspected by an office- of the Bureau of Animal Industry of this department and found free of splenetic, or Texas fever, and not to have been exposed to the contagion thereof.

And provided further that no cattle shall be allowed shipment from this area unless accompanied by a written permit issued by an officer of the Bureau of Animal Industry; and all such cattle shall be subject to the laws and regulations of the State to which destined. The cars in which said cattle are shipped must be free from infection and satisfactory to the officer supervising the shipment. This order to terminate April 30, 1903.

JAMES WILSON, Secretary.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., March 14th, 1903.

In consequence of the act of Congress approved February 2, 1903, entitled "An act to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagio-s and infectio-s disease of live stock, and for other purposes," it was
76 deemed advisable to revise and re-issue the regulations relating to contagious diseases of animals so they would have the additional power conferred by that act and accordingly the regulations concerning the transportations of southern cattle are reissued.

Advantage have been taken of the op-ertunity of revision to make a few slight additions to that part of the order of a general nature one with reference to the seperation of the pens reserved for southern cattle, from those used for other cattle, another referring to the disinfection of cars in the quarantined district. The special orders modifying the line for certain States are unchanged excepts as dates and references to orders are effected. The order modifying the line for the Territory of Oklahoma shows and alternation in its description, made to conform to the changes that have taken place through the formation of new counties.

JAMES WILSON, Secretary.

(Amendment No. 11 to B. A. I. Order No. 107.)

Special Order Regarding Quarantining of Cattle in Certain Counties of Tennessee and Kentucky.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF SECRETARY,
WASHINGTON, D. C., May 5, 1903.

It is hereby ordered that, as the infection of Texas fever exist- in certain counties in the States of Tennessee and Kentucky, no cattle, shall be moved or allowed to — moved, except as provided for southern cattle for immediate slaughter to any portion of the uninfected area from the counties of Clinton, Wayne and Pulaski of the State of Kentucky, and the counties of Pickett, Jackson,
77 Overton, Fentress, Putnam, and De Kalb, of the State of Tennessee, unless after inspection such cattle are found free of infection. This inspection must be made by duly authorised inspectors of the Bureau of Animal Industry of this department, and movement allowed for other purposes than immediate slaughter only upon written permission by such inspectors.

The special order modifying the quarantine line for the State of Tennessee (amendment No. 4 to B. A. I. order No. 107), is hereby modified in accordance with the above provisions.

WILLIS L. MOORE,
Acting Secretary.

(Amendment No. 12 to B. A. I. Order No. 107.)

Special Order Quaran-ining Part of Rome County, Tennessee.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., Pept. 1, 1903.

It is hereby ordered, that, as the infection of splenetic fever of cattle has been found to exist in that part of Rome county, Tennes-

see, lying north of the Tennessee and Clinch rivers, no cattle shall be moced or allowed to — move- except for immediate slaughter for southern cattle, to any portion of the uninfected area from said portion of Rome county, unless, after inspection such cattle are found free of infection.

The inspection must be made by duly authorized inspectors of the Bureau of Animal Industry of the department, and movements of cattle for purposes other than immediate slaughter may be made only upon written permission of such inspectors.

78 The special order modifying the quarantine line for the State of Tennessee (amendment No. 4, to B. A. I. order, No. 107), is hereby modified in accordance herewith.

JAMES WILSON, Secretary.

(Amendment No. 13 to B. A. I. Order No. 107.)

Feeding Stations in the Indian Territory for Uninfected Cattle.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., *Pept.* 24, 1903.

It is hereby ordered, that cattle origonat*i*on out side (north east or west) of the quarantine district, as *fed*ined in the order of March 13, 1903, (B. A. I. order No. 107,) and amendments thereto, and which are to be transported by rail throughout the quarantine district, may be unloaded for rest, feed, and water into uninfected pens set apart for such cattle at the Sapulpa stock yards of the St. Louis and San Francisco railroad, Sapulpa, Indian Territory provided, that the cattle are free from southern cattle ticks and have not been unloaded at any p*a*lce within the quarantine district. They may, after unloading in said pens be reloaded in the same cars from which unloaded, or into other clean and disinfected cars, and re-shipped as uninfected cattle.

JAMES WILSON, Secretary.

79 (Amendment No. 14 to B. A. I. Order No. 107.)

Regulations to Prevent the Spread of Splenetic Fever of Cattle.

Restrictions Modified.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
WASHINGTON, D. C., October 20, 1903.

It is hereby ordered that said section 3, of B. A. I. order No. 107, dated March 13, 1903, providing *of* the movement of cattle from the quarantine district described by said order and amendment hereto be amended as follows:

From November 1, 1903, to January 31, 1904, inclusive, cattle from said district may be moved for purposes other than for immediate slaughter to the non-infected area within the State of Virginia Tennessee, Texas, and California, and to the States of Missouri, and Kansas and Territories of Arizona and New Mexico, as may be provided for in the regulations of these States and Territories, and after inspection and upon written permission by and inspector of the Bureau of Animal Industry or a duly authorized inspector of the State or Territory to which the cattle are destined, from November the 1, to December the 31, 1903, inclusive, cattle from said districts may be moved to the non-infected area in the Territory of Oklahoma after an inspection and upon written permission by an inspector of the Bureau of Animal Industery. In the absent of such inspector and permission all movements of cattle from the quarantine district to points outside of such district in the above named States and
80 Territories are prohibited, except as provided for immediate slaughter.

'All cattle from the quarantine district destined to points out side of the States and Territories above named may be shipped without inspection between November the 1, 1903, and January 31, 1904, inclusive, and without restriction other than may be enforced by the local regulation at point of destination.

'The re-shipment to any part of the States of Virginia, North Carolina, Tennessee, Texas, and California, and the Territory of Oklahoma, out side of the quarantine district, *are* to any part of the State of Missouri and Kansas and the Territories of New Mexico and Arizona, of any cattle which may have been moved by this order, except by permission of the proper authorities of the State or Territories to which destined, is hereby forbidden.

'It is further ordered, that all stock pens which may have been reserved for the use of cattle of the quarantined districts, prior to November 1, next, shall not be used for the receiving or storing cattle from the quarantined districts which have been inspected and passed, nor for cattle origonating out side of the quarantined district, except when such cattle are intended for immediate slaughter.

J. H. BRIGHAM,
Acticing Secretary.

The above is all the evidence offered heard or refused at the trial thereof, and this is a true and correct bill of exceptions."

"R. J. BUGG, Judge."

(Endorsed :) "Filed Nov. 4" 1904, B. T. Huey, cl'k."

81 Be it further remembered that on the 31st. day of December, 1904, the defendant in error, J. U. McKendree, filed his answer and response to the petition for writ of error filed herein by plaintiff in error, Illinois Central Railroad Company, and the same is in words and figures as follows, to-wit :

"The Supreme Court of the United States.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff in Error.
vs.
J. U. McKENDREE, Defendant in Error.
} Answer to Petition in Error.

The above named J. U. McKendree, defendant in error, says for answer and response to the petition for writ of error, of the plaintiff in error, Illinois Central Railroad Company conceiving himself aggrieved by reason of the fact that the plaintiff in error, *have* instituted the aforesaid writ of error and prays an appeal to the Supreme Court of the United States because of the fact that the defendant in error has no money; is absolutely unable to employ counsel to brief his case or to cite law in support thereof.

Wherefore he prays that the honorable court will protect his interest herein and adjudge unto him his cost and sustain the judgment and all other proper relief."

J. U. McKENDREE."

(Endorsed:) "Filed, Dec. 31st. 1904, B. T. Huey, cl'k."

82 COMMONWEALTH OF KENTUCKY, Carlisle Circuit Court, } *sct.*:

I, B. T. Huey, clerk of the Carlisle circuit court of Kentucky hereby certify that the preceeding eighty pages contain a true and complete transcript of the record and proceedings had in State court in the action of J. U. McKendree plaintiff against Illinois Central Railroad Company defendant, together with a certificate signed by the Hon. R. J. Bugg, judge of the Carlisle circuit court, under date of December 21, 1904, and the original writ of error (a copy of which is on file in my office) and copies of the petition for writ of error allowed by Hon. R. J. Bugg on December 21, 1904, and the assignment of errors accompanying such petition together with the certificate or memorandum signed by Hon. R. J. Bugg allowing the writ and a copy of the bond with supersedeas herein approved by the Hon. R. J. Bugg, and answer of def't in error, all of which appear of record and on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of my office. Done at Bardwell in Carlisle county, Kentucky this December 31, 1904.

[Seal Carlisle Circuit Court, Kentucky.]

B. T. HUEY,
Clerk Carlisle Circuit Court for
Carlisle County, Kentucky.

Clerk's fee for copy of record:—25500 at 1c. for 10 words..... $25.50
Seal..... 1.00

$26.50

Attest: B. T. HUEY, C. C. C. C.

83 UNITED STATES OF AMERICA:

The President of the United States to J. U. McKendree, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the Carlisle circuit court wherein Illinois Central Railroad Company is plaintiff in error and J. U. McKendree is defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable R. J. Bugg, judge of the Carlisle circuit court, of Kentucky, this the 21st day of December, in the year of our Lord one thousand nine hundred and four.

R. J. BUGG,
Judge of the Carlisle Circuit Court of Kentucky.

84 [Endorsed:] Illinois Central R. R. Co. *vs.* J. U. McKendree Citation upon writ of error. Copy.

Executed in full by delivering a copy of the within citation to J. U. McKendree this Dec. 24th 1904.

JAY WILLINGHAM, S. C. C.
By R. W. ROWLAND, D. S.

85 Supreme Court of the United States.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff in Error,
vs.
J. U. MCKENDREE, Defendant in Error.
} Stipulation.

In the above styled cause docketed in this court upon writ of error to the Carlisle circuit court for Carlisle county, Kentucky, it is hereby stipulated and agreed between the parties as follows:

This cause with the consent of this court shall be heard and determined in this court only upon the following Federal questions, viz:

First. As to the validity of the act or acts of Congress so far as same might be construed as purporting to delegate to the Secretary of Agriculture power to make or to promulgate the regulations actually made by him shown in the record herein as the basis of the claims asserted by the defendant in error against the plaintiff in error it being contended on behalf of the plaintiff in error and denied by the defendant in error that such acts of Congress if so construed are in excess of the powers conferred upon Congress

by the Constitution of the United States and for that reason null and void.

Second. As to the power of the Secretary of Agriculture or of the acting Secretary of Agriculture under the Constitution of the United States or the acts of Congress aforesaid to make or to promulgate the regulations actually made and promulgated by them shown in the record herein as the basis of the claims asserted by the defendant in error against the plaintiff in error.

Third. As to whether or not under the acts of Congress and the regulations set forth in the record herein the defendant in error had or has any right to maintain a civil action against the plain-
86 tiff in error for the subject matter claimed by him in this cause.

Such Federal questions upon which this cause shall be heard and determined in this court are more fully set forth in the certificate filed herein by R. J. Bugg, presiding judge of the Carlisle circuit court before the allowance of the writ of error herein. All other questions are hereby expressly waived by the parties so far as they have power to waive same.

Witness the hands of the parties this 28 day of February, 1905.

NICHOLS & SON, Att'ys.
J. U. McKENDREE.
WICKLIFFE & WILEY, Att'ys.
ILLINOIS CENTRAL RAILROAD COMPANY,
By EDMUND F. TRABUE, Attorney.
J. U. McKINDREE,
By J. B. WICKLIFFE, Att'y.

87 [Endorsed:] File No. 19,615. Supreme Court U. S. October term, 1904 Term No. 515. Illinois Central Railroad Co. pl'ff in error *vs.* J. U. McKendree. Stipulation as to questions upon which this cause is to be heard & determined. Filed April 26" 1905.

Endorsed on cover: File No. 19,615 Kentucky Carlisle county circuit court. Term No. 168 Illinois Central Railroad Company, plaintiff in error, *vs.* J. U. McKendree. Filed January 25th, 1905. File No. 19,615.